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# भारत का राजपत्र The Gazette of India

असाधारण  
EXTRAORDINARY

भाग II—खण्ड 2  
PART II—Section 2

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इस भाग में निम्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed  
as a separate compilation.

## RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 12th July, 1991:—

I

BILL No. VII OF 1991

*A Bill to repeal the Illegal Migrants (Determination by Tribunals) Act, 1983.*

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Illegal Migrants (Determination by Tribunals) Repeal Act, 1991. Short title.

2. The Illegal Migrants (Determination by Tribunals) Act, 1983 is hereby repealed. Repeal of Act 39 of 1983,

## STATEMENT OF OBJECTS AND REASONS

In the Republic of India every State should be treated at par with others. Discriminatory treatment alienates the people of the State concerned from the mainstream of the national life.

The Illegal Migrants (Determination by Tribunals) Act, 1983 illustrates discrimination against Assam. The Foreigners Act and the Citizenship Act which are in operation throughout the whole country, have been made inoperative in Assam by the Act of 1983. As a result, Assam has been converted into a State for the foreigners. The fall out of the operation of the Act has made the State Government ineffective in identifying and deporting the illegal migrants from the State. Moreover hurdles have been created for the citizens of the country in lodging complaints against the illegal migrants. The people of Assam launched a six year long agitation against the influx of migrants into India through Assam, which was in the interest of the integrity and sovereignty of the country. The Act of 1983 in country to the spirit of the agitation by the people of Assam, militates against the integrity and sovereignty of India and is discriminatory in nature. It is, therefore, imperative to remove this discrimination and to protect the integrity and sovereignty of the country by repealing the Illegal Migrants (Determination by Tribunals) Act, 1983.

This Bill seeks to achieve the above objectives.

DR. NAGEN SAIKIA.

## II

## BILL NO. V OF 1991

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1991.

Short  
title.

2. In article 124 of the Constitution, in clause (2) for the portion beginning with the words “after consultation with such of the Judges of Supreme Court” and ending with the words “always be consulted”, the following shall be substituted, namely:—

Amend-  
ment of  
article  
124.

“On the recommendation of the National Judicial Commission and shall held office until he attains the age of sixty-five years:

Provided that the Chief Justice of India shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose.”.

3. In article 217 of the Constitution, in clause (1), for the words “after consultation with the Chief Justice of India, the Governor of the State, and in the case of appointment of a judge other than the Chief Justice, the Chief Justice of the High Court,” the words “on the recommendation of the National Judicial Commission,” shall be substituted.

Amend-  
ment of  
article  
217.

Amend-  
ment of  
article  
222.

4. In article 222 of the Constitution for clause (1) the following clause shall be substituted, namely:—

“(1) The president shall, on the recommendation of the National Judicial Commission, transfer a Judge from one High Court to any other High Court.”

Amend-  
ment of  
article  
231.

5. In article 231 of the Constitution clause (2) shall be omitted.

Amend-  
ment of  
article  
233.

6. In article 233 of the Constitution,—

(a) in clause (1) for the words “in consultation with the High Court exercising jurisdiction in relation to such State” the words “on the recommendation of the National Judicial Commission” shall be substituted.

(b) in clause (2) for the words “High Court” the words “National Judicial Commission” shall be substituted.

Insertion  
of new  
Part  
XIII.

7. After Part XIII of the Constitution, the following Part shall be inserted, namely:—

#### “PART XIII

#### NATIONAL JUDICIAL COMMISSION

Defini-  
tion.

307A. For the purposes of this Part, a ‘Judge’ means and includes a Judge of the Supreme Court (other than the Chief Justice of India), or a High Court or a District Judge, as defined under article 236, and the “State” means Union Government or a State Government.

Constitu-  
tion of  
National  
Judicial  
Commis-  
sion.

307B. (1) The President shall by order constitute a Commission, to be known as the National Judicial Commission.

(2) The Commission shall consist of—

(a) the Chief Justice of India, who shall be the Chairman of the Commission; and

(b) two persons who have held the office of a Judge of the Supreme Court and two Judges of a High Court of any State, as members of the Commission.

(3) The members of the Commission shall be appointed by the President.

(4) The tenure of the Commission shall be five years and upon completion of the period of five years, the members of the Commission shall cease to hold office as such members:

Provided that the Chairman of the Commission shall hold office as long as he holds the office of the Chief Justice of India.

**307C.** The functions of the Commission shall be as follows, namely,—

Functions of the Commission.

(i) to make recommendations to the President or to the Governor of a State, as the case may be, in respect of appointments, postings and transfers and promotions of Judges;

(ii) to enquire into allegations of corruption and misconduct against Judges and to recommend suitable punishment for the guilty; and

(iii) to recommend to the State measures for judicial reforms and for quick disposal of cases pending in various courts in the country.

**307D.** The recommendations of the Commission shall be binding on the State.”.

Recommendation to be finding.

## STATEMENT OF OBJECTS AND REASONS

The transfers of Judges from one State to another have evoked great discontentment amongst the Judges in the country. They have a feeling that transfers are due to administrative intervention. Allegations have been made in the past that Judges were being appointed by the Government according to its convenience and the Judges so appointed were obliged to the Administration and were unable to discharge their functions impartially.

There have also been instances in the recent past when Bar associations in many cases have passed resolutions expressing lack of confidence in the administration of justice on account of corruption and misconduct of the members of the Bench.

Therefore, there is a need to set up a National Judicial Commission which will be responsible to deal with the appointments promotions and transfers of Judges with a view to delinking judiciary from administrative interference and control. As such, this legislation will go a long way in providing protection to the Judges and will also be a check on the performance of Judges.

Hence this Bill.

SURESH PACHOURI

## FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for the constitution of the National Judicial Commission. The National Judicial Commission will have as its Chairman the Chief Justice of India, and as its members, two retired Judges of Supreme Court and two Judges of a High Court from a State. As far as the serving Judges are concerned, they are already functionaries and will draw the travelling and other allowances from the respective budgets. However, as far as retired Supreme Court Judges are concerned some expenditure will be involved from the Consolidated Fund of India in respect of payment of travelling and other allowances to them. Moreover, there will be some miscellaneous expenditure in regard to administration of the National Judicial Commission. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees five lakhs is likely to be involved from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

### III

#### BILL NO. IV OF 1991

*A Bill to provide for the welfare of children and matters connected therewith*

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short  
title,  
extent  
and com-  
mence-  
ment.

1. (1) This Act may be called the Child Welfare Act, 1991.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Defini-  
tion.

2. For the purposes of this Act, "child" means any person who has not attained the age of fifteen years.

Prohibi-  
tion on  
employ-  
ment of  
child-  
ren,

3. Notwithstanding anything contained in any other law for the time being in force no child shall be employed to work in any place of employment,



**4. (1) The Central Government shall, after due appropriation made by Parliament in this behalf, establish one or more Children Homes in every district of the country for the custody, care and protection of children.**

Children  
Homes.

**(2) Any child, who is found—**

- (a) abandoned;**
- (b) begging;**
- (c) disabled or destitute and neglected;**
- (d) an orphan;**

**shall be sent to a Children Home immediately.**

**5. A child sent to a Children Home shall be provided with free,—**

- (a) shelter, food and clothing;**
- (b) education including higher and technical education;**
- (c) medical aid; and**
- (d) such other facilities as may be necessary for his proper development and welfare.**

Facilities  
to child-  
ren.

**6. The Central Government shall reserve posts for the Children referred to in section 5 in all Government services, as may be prescribed, after they have attained the age of eighteen years.**

Reserva-  
tion of  
Jobs.

**7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.**

Power  
to make  
rules.

## STATEMENT OF OBJECTS AND REASONS

Even after forty-three years of independence, a large number of children are forced to work by their parents/guardians for day to day living. A good percentage amongst them are found working in factories, private firms and for domestic purposes. They do not get nourishment and food and suffer from ailments and die prematurely. Also, in a number of families, children are forced to beg. Some of those children may be talented but due to lack of facilities and opportunities their talents are not utilised for their own welfare or for the welfare of the country. Children are the future of the country. It is the responsibility of the Government to ensure that children are given opportunities and facilities to develop in a healthy manner and they should also be protected from all kinds of exploitation.

It is, therefore, necessary that legislation for the welfare and protection of children be enacted.

Hence this Bill.

SURESH PACHOURI.

### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that all children who are illegitimate, beggars, etc. shall be sent to the Children Homes to be established by the Central Government in every district. Clause 5 provides for free education including higher and technical education, and medical facilities to children by the Central Government. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees fifty lakhs per annum.

It is also likely to involve a non-recurring expenditure of about rupees five lakhs.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. These rules will relate to matters of details only as such the delegation of legislative power is of a normal character.

## IV

## BILL NO. XVII OF 1991

*A Bill further to amend the Durgah Khawaja Saheb Act, 1955.*

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short title  
and com-  
mence-  
ment.

1. (1) This Act may be called the Durgah Khawaja Saheb (Amendment) Act, 1991.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette appoint.

2. In section 2 of the Durgah Khawaja Saheb Act, 1955 (hereinafter referred to as the Principal Act) in clause (d) sub-clause (iv) for the words “including the Jagirdari villages of Hokran and Kishanpur in Ajmer” the words “excluding Jagirdari villages of Hokran and Kishanpur in Ajmer from the Durgah Endowment which are held by the hereditary Sajjadanashin in lieu of the *Perquisites* attached to the said hereditary office of the Sajjadanashin shall be substituted.

Amend-  
ment of  
Section  
11.

3. In section 11 of the principal Act clause (h) shall be omitted.

4. After section 11 of the principal Act, the following Section shall be inserted, namely:—

Insertion  
of new  
Section  
11A.

“11A. The hereditary Sajjadanashin, the great grandson of Hazrat Khawaja Moin-ud-din Hasan Chishti, shall preside over all functions as per customs and traditions of the Durgah and he shall exercise such other powers as have been inherited by him under hereditary rights since ancient times and which by virtue of such rights have been conferred on him according to Shariyat or by the Shariyat Laws.”

Functions  
and  
Powers of  
Sajjada-  
nashin.

5. For Section 12 of the principal Act, the following section shall be substituted, namely:—

Substitu-  
tion of  
new  
Section  
for Sec-  
tion 12.

“12. (1) There shall be paid to the person holding the hereditary office of the Sajjadanashin,—

(a) maintenance for the said hereditary office at the rate of rupees ten thousand per mensem; and

(b) allowance at the rate of rupees ten thousand per mensem for the maintenance of the Holy *Khanqah Shareef* of Hazrat Khawaja Moin-ud-din Hasan Chishti out of the revenues of the Durgah Endowment.

(2) The hereditary Sajjadanashin shall also be entitled to receive all incomes, whether in cash or in annuity from the villages of Hokran and Kishanpur in Ajmer, until the objects of the endowment are fulfilled in the manner desired by the donors.”

6. For section 13 of the principal Act, the following section shall be substituted, namely:—

Substitu-  
tion of  
new  
Section  
for Sec-  
tion 13.

“13. As soon as the Office of Sajjadanashin falls vacant, the office which is hereditary one in the family of Hazrat Khawaja Moin-ud-din Hasan Chishti as per law, shall automatically be succeeded by the eldest son of the deceased Sajjadanashin in his absence the younger son or any other son of his nearest male relative shall succeed as Sajjadanashin as per the customs and traditions of the Sajjadana-  
shin and Hazrat Khawaja Saheb's family.”

Succession  
to the  
hereditary  
office of  
the Saj-  
jadanashin.

## STATEMENT OF OBJECTS AND REASONS

The Durgah Khawaja Saheb Act which was enacted in 1955 has become outdated in the present context and requires to be further amended to make it upto date. For example the remuneration of the Sajjadanashin was fixed at rupees two hundred per mensem at the time of its enactment whereas the inflation rate has risen manifold rendering the amount insufficient. The word 'remuneration' shall also be substituted by word 'the maintenance of Sajjadanashin' to give it proper meaning. The maintenance allowance should also be raised to rupees ten thousand per mensem for maintaining the *holy Khanqah Shareef* where Hazrat Khawaja Moin-ud-din Hasan Chishti lived during his life time. It is also felt necessary to give legal protection to hereditary succession to the office of Sajjadanashin.

Hence this Bill.

SURESH PACHOURI.

## V

## BILL No. XIII OF 1991

*A Bill to provide for the rehabilitation, reservation of jobs and other welfare measures for the blind and other physically handicapped persons in the country and for matter connected therewith.*

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Blind and other physically Handicapped Persons (Rehabilitation, Employment and Welfare) Act, 1991.

Short  
title,  
extent and  
commence-  
ment.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means,—

(i) the Central Government,

(1) in relation to any establishment owned, controlled or managed by the Central Government or a department of the Central Government; or

(2) any company in which not less than fifty percent of the shares are held by the Central Government or partly

by the Central Government and partly by one or more State Governments; or

(3) any corporation including a co-operative society established by or under a Central Act or owned, controlled or managed by the Central Government.

(ii) in relation to any other establishment the Government of the State in which that establishment is situated;

(b) "blind person" means any person who has total absence of sight or vision;

(c) "disabled or physically handicapped person" means any person having physical, mental or any other disability leading to a substantial handicap to his normal daily activities and to employment and hindering his normal life;

(d) "employer" means any person who employs fifty or more persons to do any work in an establishment for remuneration;

(e) "establishment" means any office or any place where any industry, trade, business or occupation is carried;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "registering authority" means the authority appointed under section 5 of this Act.

3. (1) The Central Government shall, by notification in the official Gazette, establish a National Council for the Blind and Handicapped Persons (hereinafter referred to as the National Council):

(2) The National Council shall consist of the following members, namely:—

(i) The Union Ministers of Health and Family Welfare, Labour, Welfare, Finance and Deputy Chairman of the Planning Commission;

(ii) A representative of the Central Social Welfare Board;

(iii) A representative from each of the State Governments and Union territories;

(iv) Two representatives of the blind and handicapped persons;

(v) two representatives representing the associations or voluntary organisations engaged in the welfare of blind and other handicapped persons;

(vi) four members of Parliament, two from each House to be nominated by the Speaker of the House of the People and Chairman of the Council of States.

(3) The Union Minister of Welfare shall be the Chairman of the National Council.

(4) It shall be the duty of the National Council to—

(a) evolve a national policy for the rehabilitation of blind and other handicapped persons;

(b) start new programme, services and pilot projects for the rehabilitation of handicapped and blind persons;

Establishment of National Council for the Blind and Handicapped.



(c) review and suggest amendments to the existing laws or suggest new legislation for the welfare of blind and other handicapped persons;

(d) review the facilities available to the blind and other handicapped persons from time to time.

(5) The National Council shall meet at least once in every six months.

4. Every employer shall, from the commencement of this Act, reserve not less than six percent of the vacancies occurring in any calendar year in any employment in the establishment to be filled in from among persons who are blind or physically handicapped in an equal ratio.

Employers to reserve vacancies in employment.

5. The appropriate Government may, by notification in the Official Gazette, appoint as many authorities as it deems necessary as Registration Authorities for the purpose of registration of blind and other physically handicapped persons and may also define the area within which each of such authority shall exercise its jurisdiction.

Appointment of Registering Authorities.

6. (1) Any blind or physically handicapped person, if he possesses the prescribed qualifications and desires to get himself registered under this Act, shall make an application in such form containing such particulars as may be prescribed, to the registration authority within whose jurisdiction he resides and such authority shall register his name in a register and issue him a certificate of registration.

Registration of blind and other handicapped persons.

(2) The register shall be maintained by the Registering Authority in such form and in such manner as may be prescribed.

7. Every employer shall notify every vacancy to the Registering Authority within whose jurisdiction his establishment is situated.

Employers to notify vacancies to Registering authorities.

8. As soon as may be, after the notification under section (7), the Registration Authority shall furnish a list of blind and other handicapped persons registered with it to the employer notifying, the vacancies who shall fill up the percentage of vacancies reserved for the blind and other handicapped persons from the list furnished to him.

Authorities to furnish list of blind and other handicapped persons to employers.

9. (1) Every employer shall maintain such records giving such particulars of the blind and other handicapped persons in such manner as may be prescribed;

Employer to maintain records of blind and other handicapped persons.

(2) The records so maintained by the employer shall be open to inspection at all reasonable hours by such persons as may be authorised by the appropriate Government

Financial assistance in case of unemployment.

10. The appropriate Government shall give financial assistance of rupees three hundred per month to every unemployed blind or physically handicapped person whose name appears in the register maintained under section 6 of this Act till such time he is given an employment.

Penalty.

11. Any employer who contravenes the provisions of this Act shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees, or with both.

Offences by Companies.

12. Where an offence under this Act has been committed by a company, every person who, at the time of committing the offence was in-charge of and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence under this Act.

Offences by Government departments.

13. Where an offence under this Act has been committed by any department of the Government, the head of such department shall be deemed to be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

Other right of the blind and other handicapped persons.

14. Every blind and handicapped person shall have the right and be eligible to receive free of cost medical, surgical and other kinds of treatment, aids, appliances and equipments which may be helpful in reducing the adverse effects of disablement and restore the functional abilities of the blind and handicapped persons.

Welfare measures for the blind and handicapped persons.

15. For the welfare of the blind and other handicapped persons, the appropriate Government shall—

- (a) reserve five percent. of all housing units constructed by it;
- (b) provide training and other facilities to enable them to participate in sports, social and cultural activities;
- (c) provide training for gainful employment in the institutions to be set up for the purpose;
- (d) provide free passage for travel by road, inland navigation or by air;
- (e) provide all aids, appliances, equipments and other articles used in the treatment, training, employment or in their economic resettlement;
- (f) provide interest free loans and other financial assistance for self employment;
- (g) undertake measures for the prevention of blindness and disability as may be found necessary.

power to make rules.

16. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

### STATEMENT OF OBJECTS AND REASONS

The worst disability that a human being can suffer from his blindness. Darkness becomes the fate of such a person. There are millions of blind persons in the country suffering from this worst disability. Though many of them are talented they are unable to secure suitable employment. As such, they are financially crippled. They have no independent or adequate means of livelihood and they spend their lives in agony and distress. The same is the fate of other physically and mentally handicapped persons in the country who number in crores.

The nation has a responsibility to look after the blind and other disabled persons so as to make them useful citizens of the country. There is a need for a national body to evolve a national policy for the care and rehabilitation of the blind and disabled persons and to coordinate the activities of the different agencies functioning in this field. It is also necessary that adequate job opportunities are provided to the blind and other disabled persons through various schemes, including reservation of jobs in Government organisations and public as well as Private Sector Organisations.

For this they should be given adequate training in various fields and vocations. They should also be given proper treatment in hospitals, and should also be provided with necessary equipments and para-medical support to improve their general well being.

This Bill seeks to achieve the above objects.

S. S. AHLUWALIA.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of a National Council for the blind and handicapped persons. Clause 5 provides for the appointment of Registration Authorities. Clause 10 provides for financial assistance to blind and other handicapped persons in case of unemployment. Clause 14 provides for some facilities to the blind and disabled persons and clause 15 provides for other welfare measures for them. The Bill, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one hundred crores is likely to be involved from the Consolidated Fund of India.

A non recurring expenditure of about rupees one crore is also likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 16 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only. As such the delegation of legislative power is of a normal character.

## VI

## BILL NO. XV OF 1991

*A Bill to provide for the establishment of an Authority for the planning and integrated implementation of measures for the control of floods and bank erosion in the northern parts of the State of Bihar caused by Ganga, Gandak, Mahananda and Sone rivers, for joining all these rivers through canals in that State and to provide irrigation facilities in the Central and Southern parts of the State and for matters connected therewith.*

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Bihar Flood Control Authority Act, 1991.

(2) It shall come into force at once.

2. It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the regulation and development of the stretch of Ganga, Gandak, Mahananda and Sone rivers particularly in the northern parts of the State of Bihar to the extent hereinafter provided.

Short  
title  
and com-  
mence-  
ment.

Declara-  
tion to  
expedi-  
ency of  
control  
by the  
Union.

Defini-  
tions

3. In this Act, unless the context otherwise requires,—

(a) "Authority" means the Bihar Flood Control Authority established under section 4 of this Act;

(b) "Chairman" means the Chairman of the Authority;

(c) "fund" means the Bihar Flood Control Authority fund constituted under section 11 of this Act;

(d) "garland canal scheme" means the scheme for joining the Ganga, Gandak, Mahananda and Sone rivers through canals to link the Central and Southern parts of the State of Bihar for the purposes of irrigation;

(e) "Master plan" means the Master plan for the Control of floods, bank erosion and improvement of irrigation facilities in the Northern, Central and Southern parts of Bihar prepared by the Authority and includes where it is prepared in parts, each such part;

(f) "prescribed" means prescribed by rules made under this Act.

Establish-  
ment of  
the Bihar  
flood  
control  
Autho-  
rity.

4. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be established for the purpose of this Act, an Authority to be called the Bihar Flood Control Authority.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable and to contract and shall by the said name sue and be sued.

(3) The authority shall consist of the following members, namely:—

(a) a Chairman and a Vice-Chairman to be appointed by the Central Government;

(b) a director of Authority *ex-officio*;

(c) four members of Parliament of whom two each shall be elected by the House of the People and two by the Council of States;

(d) a member each to represent respectively the Ministries of the Central Government dealing with Agriculture, Irrigation, Finance, Power and Transport to be appointed by the Central Government;

(e) a member each to represent respectively the Central Water Commission, the Central Electricity Authority, the Geological Survey of India, the Indian Meteorological Department to be appointed by the Central Government;

(4) If any member, for infirmity or otherwise, is incapable of carrying out his duties or is absent on leave otherwise than in circumstances not involving the vacation of his appointment the Central Government may appoint another person to act in his place.

(5) The Authority may associate with itself, in such manner and for such purposes as may be determined, any person whose assistance or advice it may desire in complying with any of the provisions of this Act.

(6) The term of office of members (other than the *ex-officio* members) and other conditions of service shall be such as may be prescribed.

5. Subject to any rules made in this behalf, the Authority may, from time to time, constitute such Advisory Committees as may be necessary for the efficient discharge of its functions.

Advisory  
Commit-  
tees.

6. The Authority shall perform such functions and exercise such of the powers within such areas in the Central, Northern and Southern parts of the State of Bihar as the Central Government may by notification in the official Gazette, specify from time to time:

Functions  
and  
powers  
of the  
Autho-  
rity.

Provided that before issuing any notification in respect of any area under this section the Central Government shall consult the Government of the State of Bihar.

7. (1) Subject to the provisions of this Act and the rules, the Authority shall carry out surveys and investigations in the State of Bihar and prepare a Master plan for the control of floods, bank erosion, improvement of drainage and desiltation of rivers in the State of Bihar:

Master  
Plan  
for the  
Control  
of floods  
etc. in  
the  
State of  
Bihar.

Provided that the Authority may prepare the Master plan in parts with reference to different areas of the State of Bihar or with reference to different matters relating to such areas and may, as often as it considers necessary so to do, revise the Master plan or any part thereof.

(2) In preparing the Master plan, the Authority shall have regard to the development and utilization of the water resources of the Ganga-Gandak, Mahananda and Sone rivers for irrigation, hydro power and other beneficial purposes and shall, as far as possible indicate in such plan the works and other measures which may be undertaken for such development.

(3) In addition to the Master Plan referred to above the Authority shall prepare the Master plan for providing garland canal scheme for the Central and Southern parts of the State of Bihar by joining the Ganga, Gandak, Mahananda and Sone rivers by canals for the irrigation facilities in these parts of the State.

8. The Authority shall also perform such other functions, as are supplemental, incidental or consequential to the functions in this Act.

Other  
functions  
of the  
Autho-  
rity.

9. Subject to the provisions of this Act and the rules made thereunder the Authority shall have the power to do anything which may be necessary or expedient for the purposes of performing its functions under this Act.

General  
Power  
of the  
Autho-  
rity.

10. The Central Government may, from time to time, issue to the Authority such directions and instructions as it may deem necessary for the efficient administration of this Act and the Authority shall carry out such directions and instructions.

Direc-  
tions  
by the  
Central  
Govern-  
ment.

Grants by  
Central  
Govern-  
ment and  
funds  
of the  
Autho-  
rity.

**11. (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Authority such sums of money as the Central Government may consider necessary.**

**(2) There shall be constituted a fund to be called the Bihar Flood Control Authority Fund and there shall be credited thereto the sums paid to the Authority by the Central Government or the Government of the State of Bihar and all other sums received by the Authority**

Members,  
Officers  
and em-  
ployees  
of the  
Autho-  
rity to  
be public  
servants.

**12. All members, officers and employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.**

Power  
to make  
rules.

**13. The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.**



## STATEMENT OF OBJECTS AND REASONS

Every year the Northern parts of Bihar are inundated by the fury of floods caused by the Ganga, Gandak, Mahananda and Sone rivers. The floods bring havoc in this region resulting in heavy loss of human lives, their dwelling units, livestock and also causes widespread damage to standing crops. The floods also bring dreaded diseases like cholera, gastroenteritis, hepatitis and other eye and skin diseases. After the floods are over people who are lucky survivors do not have a roof over their head, they do not have anything to eat and no drinking water is available to them. At the same time they face the dreaded diseases also. Thus they are left at the mercy of God though meagre help and assistance is provided to them by the Administration. But mere assistance is not enough because floods are an yearly routine. So the need of the hour is to remove the causes of the disease. Thus it is necessary to make fool-proof arrangements to see that floods do not occur in the Northern parts of Bihar year after year. So the rivers of Ganga, Gandak, Mahananda and Sone which are the cause of floods have to be tamed in such a way that their water is utilized for other purposes and they do not cause floods. Desiltation of these rivers from time to time may help in combating floods. Similarly water of these rivers can be utilized to generate hydro electricity and for irrigation.

It is also a fate of irony that whereas the Northern parts of the State of Bihar are inundated by floods each year the Central and Southern parts of the State are drought prone. There are no irrigation facilities in these regions. In order to overcome these problems the rivers flowing through the State can come handy. The Ganga, Gandak, Mahananda and Sone rivers can be connected through canals for irrigation facilities and these canals can be extended through Central and Southern parts of the State of Bihar. Thus a garland canal scheme can be formulated to provide irrigation facilities in these parts.

So the need of the hour is to establish an Authority which may be entrusted with the work of combating floods in the Northern parts of Bihar and to provide irrigation facilities in the Central and Southern parts of the State so that the State of Bihar may emerge prosperous in due course.

This Bill seeks to achieve the above objects.

S. S. AHLUWALIA.

### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of the Bihar flood Control Authority. Clause 11 of the Bill provides for grants to be made by Central Government and fund to be created by the Government. The Bill, therefore, if enacted and brought into operation will involve expenditure from the Consolidated Fund of India. It is estimated that in the first instance a sum of rupees three hundred crores will be involved from the Consolidated Fund of India.

A sum of rupees two crores will also be required for non recurring expenditure.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is, therefore, of a normal character.

## VI

BILL No. XVIII OF 1991

*A Bill to provide for conversion of the entire loan amount given by the public financial institutions to the companies into equity share capital to give powers to the financial institutions to exercise control over the companies taking loan from them and matters connected therewith.*

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Public Financial Institutions (Conversion of Loans to Companies into Equity Share Capital) Act, 1991.

Short  
title  
and com-  
mence-  
ment.

(2) It shall come into force at once.

2. In this Act unless the context otherwise requires,—

Defini-  
tions.

(a) "company" means a company formed, incorporated and registered under the Companies Act, 1956;

(b) "public financial institutions" means the financial institutions specified in section 4A of the Companies Act, 1956.

1 of 1956.

Conversion of loan amount of companies into equity share capital in certain cases.

3. Notwithstanding anything contained in the Companies Act or in any other law for the time being in force, the entire amount of loan given by any public financial institution to any company shall be deemed to have been converted into equity share capital of the Company if the loan so advanced exceeds fifty per cent. of the total equity capital of the Company.

Savings.

4. The provisions of this Act shall be in addition to and not in derogation of the provisions of the Companies Act, 1956.

## STATEMENT OF OBJECTS AND REASONS

In our country almost all the Companies, big or small, mainly exist on loans taken from the Public Financial Institutions such as the Industrial Credit and Investment Corporation of India, Industrial Finance Corporation of India, Industrial Development Bank of India, Life Insurance Corporation of India and Unit Trust of India. Apart from taking loans from the Public Financial Institutions the Companies particularly owned by big industrial houses take huge loans from the Banking sector also. In most of the cases the loan amount exceeds more than fifty per cent. of the total capital of the companies. Thus the moneys are *de facto* invested in such companies by the public financial institutions and Banks but all the benefits derived therefrom accrue to the owners of these companies and industrial houses. As a result, the industrialists and business houses in our country are prospering on the money of Public Financial Institutions and Banks. It has also been the practice with the industrial sector that after taking huge loans the companies do not bother to return the money and the interest accrued thereon and often resort to creating legal hurdles deliberately in the recovery process initiated by such Public Financial Institutions. As a result, huge public funds are lying blocked with the companies in the private sector. Sometimes it happens with the connivance of the greedy elements in the public financial institutions but in most of the cases the companies default deliberately. It has also been noticed that after taking loans the companies declare themselves sick and force the Government to take them over and the Government has to write-off the loans and also pay compensation to the owners of the companies. Such cases are clear instances of frauds committed by the owners of the companies but unfortunately these frauds are legalised in one way or the other.

If it is made mandatory that where the loan amount is more than 50 per cent. of the total equity capital of company, the entire loan should be converted into equity share capital of the company held by the Public Financial Institution advancing the loan to the company so that the Institution can have a strong say in the affairs of the company for taking due care of the repayment of loans with interest in the national interest. Moreover, in such circumstances, the owners will also not be in a position to cripple the company deliberately and declare it sick. It will put a check on the financial management of the Company.

This Bill seeks to achieve the above objects.

S. S. AHLUWALIA

## VIII

BILL No. XII OF 1991

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short  
title and  
commence-  
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 1991.

(2) It shall come into force at once.

Insertion  
of new  
article  
48AA.

2. After article 48A of the Constitution, the following article shall be inserted, namely:—

Develop-  
ment of  
Agricul-  
ture as an  
Industry.

48AA. The State shall take steps to,

(a) declare agriculture as an Industry;

(b) make agriculture export oriented;

(c) give agriculture workers all those benefits which are enjoyed by industrial workers;

(d) raise the standard of living of the agricultural workers and their purchasing capacity; and

(e) introduce 'agriculture' as a subject of study at all levels of education.

*Explanation.*—In this article the expression "agriculture" includes horticulture, sericulture, poultry, orchard or such other operations which are based on agriculture, and agro-industries.

## STATEMENT OF OBJECTS AND REASONS

Our country is primarily agricultural. More than 70 per cent of its population is dependent on agriculture. Most of the industrial products are based on agriculture. But there is no parity between prices of Industrial products and agricultural produce. So also is the case of return from these sectors. The margin of profit and rise in Industrial production is manifold whereas it is very meagre in the agricultural sector. As a result of this disparity the purchasing capacity of persons engaged in the Industrial sector is increasing but the purchasing capacity of farmers is decreasing day by day. Therefore, it is necessary to declare Agriculture as an Industry so that it could advance at the same pace as industry. The Industrial growth which is solely dependent on agriculture must admit agriculture as a supporting partner. The return on agriculture must be on the same level as industry when both develop side by side.

So far as the Industrial workers are concerned they earn remuneration according to the current price index. Their wages are increased according to the price index. They can also extract more and more benefits due to their bargaining power and organized efforts. But the agricultural workers have no bargaining power as they are not organised and they remain exploited and poor. They get meagre wages. If agriculture is brought at par with industry, the agricultural workers will automatically get a fair deal and all the benefits which the Industrial workers get.

This Bill seeks to achieve the above object.

VITHALRAO MADHAVRAO JADHAV.

## IX

## BILL NO. XVI OF 1991

*A Bill further to amend the Constitution of India.*

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short  
title  
and com-  
mence-  
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 1991.

(2) It shall come into force at once.

Amend-  
ment of  
article  
356.

2. In article 356 of the Constitution, in clause (1) for the portion beginning with the words "of a State or otherwise" and ending with the words "with the provisions of this Constitution" the following shall be substituted, namely:—

"of a State is satisfied that situation has arisen,—

(i) due to an armed rebellion within the State; or

(ii) due to an external aggression directly involving the geographical boundaries of the State; or

(iii) that the Government of the State has lost the majority on the floor of the State Legislative Assembly,"



## STATEMENT OF OBJECTS AND REASONS

Article 356 of the Constitution was incorporated with an assurance in the Constituent Assembly that the provisions of this article would be used only in situation of utmost justification and not for protecting the political interests of the ruling party at the Centre. However within less than a decade of the commencement of our Constitution, a democratically elected opposition led Government in the State of Kerala headed by Shri EMS Namboodiripad was dismissed in the year 1959 inspite of the fact that it enjoyed majority in the Kerala Legislative Assembly and the so called break down of law and order was due to the agitation unleashed by the then ruling party at the Centre. Since then there had been a number of instances of misuse and abuse of this provision of the Constitution by ruling parties at the Centre.

Our country being a huge sub-continent with 15 constitutionally recognised national languages and distinct cultural traditions, can remain united only if strict democratic norms are followed in the functioning of the Governments at the Centre and the States. The misuse of article 356 in relation to the State of Punjab and Jammu and Kashmir is also responsible for the precarious situation existing there today. If the democratic verdict of the people of a State with regard to the choice of Government in their State is subverted according to the whims and fancies of the Central Government, the people of that State will naturally get alienated from the mainstream of the national political scene and divisive, fissiparous and secessionist forces will only take advantage of the situation as has happened in many parts of India. This Bill is intended to minimise the misuse and abuse of article 356 of the Constitution.

Hence this Bill.

M. A. BABY.

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SUDARSHAN AGARWAL,  
*Secretary-General.*

